

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-3163-2012

Date of Decision:27.04.2018

Krishna Gupta

.....Appellant

Versus

Manfat Ali and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Dharam Chand Mittal, Advocate,
for the appellant.

Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

The appellant-claimant has filed the present appeal seeking enhancement of compensation over and above the amount awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri, (for short “the Tribunal”) vide award dated 13.10.2011.

As per claim petition on 14.06.2001, the appellant-Krishna Gupta and other co-passengers Parag Gupta, Bhagwati, Vipin Sharma and Smt. Suka Sharma were traveling to Ambala in an ambassador car bearing registration No.HR-01-H-7497 being driven by Vipin Sharma at a normal speed. At about 8.45 am, when they reached near village Kalanaur in the area of Police Station Sadar, Yamuna Nagar, then an Indica car bearing registration No.HR-02-F-9787 being driven by respondent No.1 came from Yamuna Nagar side. The offending vehicle hit the car of the claimants.

Due to said accident, the occupants of the car including the claimants

sustained injuries and the car was also badly damaged. Both the injured

were shifted to the hospital for medical treatment.

In a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of injuries suffered by the appellant-claimant, the Tribunal has awarded a total compensation of ₹69,000/- along with interest @ 7.5% per annum from the date of filing of the petition till its realization.

Not satisfied with the aforesaid amount of compensation, the appellant has filed the present appeal, seeking enhancement of compensation.

Learned counsel for the appellant has argued that in the said accident, she suffered injuries and was admitted in Sugandha Nursing Home, Saharanpur. Dr. Surender Sharma, Orthopedic Surgeon, while appearing as PW2 had testified that on 14.06.2001, appellant-Krishna Gupta was admitted in his hospital with multiple fracture ribs right side with haemothorax and comminuted inter condyle fracture right supra condyle region of thigh. She was operated for the supra candyle fracture of right femur and conservative treatment was given for ribs fracture. Sufficient amount was spent on her treatment. Learned counsel for the appellant has further argued that in the accident, the injured had incurred an expenditure of about ₹40,000/- to ₹50,000/- on her treatment alone. Since she was not fully cured, she had appeared before the Medical Board, Saharanpur, where the doctor assessed her disability to the extent of 10%. He refers to the disability certificate Ex.PW5/A. Prior to the said accident, she was working as a Govt. teacher in Govt. Girls Higher Secondary School, Nawab Ganj, Saharanpur and was drawing salary of ₹11,473/- per month. On account of injury, she could not join her duty from 01.07.2001 to 22.10.2001 and she

remained on medical leave. Since her medical leave had elapsed, she did not receive any salary for the period she remained on medical leave i.e. from 01.07.2001 to 22.10.2001.

Learned counsel for the appellant further states that because of injuries suffered by the appellant, she remained on medical leave from 01.07.2001 to 22.10.2001. She was getting a gross salary of ₹11,473/- per month and her carry home salary was ₹8,631/-, thus, she suffered loss of income to the extent of ₹42,832/-. Even thereafter, she had to follow up the treatment so as to cure herself.

I have heard the learned counsel for the parties.

The Tribunal has awarded a total compensation of ₹30,000/- towards loss of income, which this Court finds deserves to be enhanced for another sum of ₹10,000/-. So far as pain and suffering is concerned, the Tribunal has awarded only an amount of ₹3,000/-. This Court finds that as the appellant remained on medical leave for about four months, the effect of injuries must have caused prolonged pain to the appellant, therefore, the amount of ₹3,000/- towards pain and suffering is enhanced to ₹10,000/-.

The claim of the appellant that the Tribunal has not awarded compensation towards the medical bills, cannot be accepted for the reason that there is a finding returned by the Tribunal that the medical bills were never proved on record by the appellant.

With this increase of ₹17,000/- over and above the amount awarded by the Tribunal, the present appeal stands disposed of.

April 27, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No